

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK
JUNE 24 2009
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Respondent,)	2 CA-CR 2009-0059-PR
)	DEPARTMENT B
v.)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
ANSON HOANG LEE LAVENTURE,)	Rule 111, Rules of
)	the Supreme Court
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20040357

Honorable Frank Dawley, Judge Pro Tempore

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

Anson Hoang Lee Laventure

Tucson
In Propria Persona

E C K E R S T R O M, Presiding Judge.

¶1 Petitioner Anson Laventure was charged in a seven-count indictment with sexual abuse of a minor under the age of fifteen, child molestation, and multiple counts of sexual conduct with a minor under the age of fifteen. He pled guilty to two amended counts, both charging attempted sexual conduct with a minor under the age of fifteen. Pursuant to the plea agreement, the trial court sentenced him to six years' imprisonment for one offense, suspended the imposition of sentence for the other, and imposed a term of lifetime probation for the latter.¹

¶2 Laventure filed a petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P., challenging the trial court's imposition of lifetime probation based on claims the court interpreted as asserting such a term exceeded the maximum authorized by law and constituted cruel and unusual punishment under the Eighth Amendment to the United States Constitution and article II, § 15 of the Arizona Constitution.² The court denied relief, noting that the imposition of lifetime probation was statutorily authorized by A.R.S. § 13-902(E). It also noted that the prohibition against cruel and unusual punishment has been applied to lengthy sentences of incarceration. *See State v. Davis*, 206 Ariz. 377, ¶ 13, 79 P.3d 64, 68 (2003). But assuming probation could be considered punishment for purposes of analysis, the court found the imposition of lifetime probation could "hardly be viewed as grossly

¹The agreement provided a sentencing range of five- to ten-year terms of imprisonment on both counts and the possibility of lifetime probation for one of the counts.

²The Arizona Constitution protects against cruel and unusual punishment to the same extent as the Eighth Amendment to the United States Constitution. *See State v. Davis*, 206 Ariz. 377, ¶ 12, 79 P.3d 64, 67-68 (2003).

disproportionate or exceedingly harsh,” given the circumstances of Laventure’s offense. *See State v. Mott*, 187 Ariz. 536, 547, 931 P.2d 1046, 1057 (1997) (“A sentence is cruel and unusual only when there is gross disproportionality between the offense and the sentence.”).

¶3 Rule 32.9(c)(1)(iv) requires a petition for review to include “[t]he reasons why [it] should be granted.” In his petition for review, Laventure offers no argument or authority for his contention that the trial court erred as a matter of law or otherwise abused its discretion by denying relief. *See State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990) (appellate court will not reverse summary denial of post-conviction relief absent clear abuse of discretion); *see also State v. Rubiano*, 213 Ariz. 184, ¶ 5, 150 P.3d 271, 272 (App. 2007) (“[A]n abuse of discretion includes an error of law.”). We find no abuse of discretion in the trial court’s ruling and therefore deny relief.

PETER J. ECKERSTROM, Presiding Judge

CONCURRING:

J. WILLIAM BRAMMER, JR., Judge

GARYE L. VÁSQUEZ, Judge